display unit is the scanning of the entire liquid crystal display unit.

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10. A liquid crystal display apparatus according to claim 6, wherein a dynamic image display response of said liquid crystal display unit is the scanning of the entire liquid crystal display unit.--

REMARKS

By the above amendment, new dependent claims 8-10 dependent from independent claims 1, 2 and 6 have been presented.

At the outset, it should be noted that the present invention is directed to a liquid crystal display apparatus which can smoothly display dynamic images without obscurity. That is, as described at pages 1 and 2 of the Substitute Specification, since a human perceives dynamic images by averaging the displayed images, the perceived images are not focused and the publication referred to in the paragraph bridging pages 1 and 2 discloses a technique in which, after the whole or entire display panel has been scanned, a lighting device is turned on to eliminate the lack of focus due to the above averaging effect. However, as noted, since the lighting device is turned on after the whole or entire liquid crystal panel has been scanned, and the response of the whole or

entire liquid crystal has been completed, the scanning period and the response time must be significantly shortened and since the lighting period of the lighting device is short, the light strength must be increased in order to achieve the same brightness as that obtained in a conventional liquid crystal display method. Such results in decreasing of the lifetime of the lighting device. The present invention, however, provides an active matrix-type liquid crystal display apparatus which is capable of displaying dynamic images and of preventing the aforementioned problems including enabling smooth display of dynamic images without obscurity.

The rejection of claims 1-7 under 35 U.S.C. 103(a) as being unpatentable over Ohe et al (USPN 5,949,509) in view of Johnson et al (USPN 6,252,638) is traversed, in that applicants submit that Ohe et al is not properly utilizable under 35 U.S.C. 103, and, assuming arguendo, that Ohe et al is properly utilizable, the combination with Johnson et al fails to provide the claimed features, as will become clear from the following discussion.

Turning to the impropriety of the utilization of Ohe et al, applicants note that Ohe et al and the present application are commonly assigned and since the present application has a U.S. filing date subsequent to the enactment date of 35 U.S.C. 103(c) and was filed within one year of the issue date of Ohe

et al, applicants submit that 35 U.S.C. 103(c) is applicable to the rejection as set forth. 35 U.S.C. 103(c) provides that subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of §102 of this title shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Applicants submit that 35 U.S.C. 103(c) is applicable to Ohe et al in relation to the claimed invention, and Ohe et al is not properly utilizable in rejecting claims of this application. As such, applicants submit that the rejection, as stated, based upon the combination of Ohe et al and Johnson et al necessarily falls and all claims should be considered allowable thereover.

Turning to the rejection, assuming arguendo that Ohe et al may be properly utilizable, as recognized by the Examiner "Ohe does not teach a lighting device that includes plurality of light sources" and applicants submit that irrespective of the Examiner's contentions concerning Ohe et al, Ohe et al does not disclose that dynamic images can be displayed smoothly without obscurity by providing a light unit and control unit for controlling ON and OFF states of light sources based on a display response of the liquid crystal

display unit as described at page 9, line 26 to page 10, line 16, and page 11, lines 10-13 of the Substitute Specification of this application. That is, irrespective of the Examiner's contentions, applicants submit that Ohe et al does not disclose a control unit for controlling ON and OFF states of a light source for each of plural regions into which said lighting device is divided, based on a display response of said liquid crystal display unit, wherein the lighting device includes a plurality of light sources, as recited in claim 1; that a lighting device includes a light-adjustment unit for adjusting a quantity of light from the light source, which is transmitted to each of plural regions into which the lighting device is divided and a control unit for controlling each light-adjustment unit based on a display response of said liquid crystal display unit, as recited in claim 2; or a lighting device which includes a plurality of light sources, for transmitting light from said plurality of light source to said liquid crystal display unit, and a control unit for controlling ON and OFF states of a light source for each of plural regions into which said lighting device is divided, when dynamic images are display based on a result in said determination performed by said controller, as recited in claim 6. Applicants submit that Ohe et al does not disclose a control unit as claimed, nor the problem of obscurity of

dynamic image display. As such, applicants submit that independent claims 1, 2 and 6 and the dependent claims patentably distinguish over Ohe et al in the sense of 35 U.S.C. 103.

With respect to Johnson et al, while this patent does disclose plural light sources, applicants submit that Johnson et al does not disclose a control unit operating in the manner as recited in independent claims 1, 2 and 6, which features are also not disclosed by Ohe et al. Thus, applicants submit that Johnson et al does not overcome the deficiencies of Ohe et al with respect to operation of a control unit nor is Johnson et al directed to the problem of obscurity of dynamic image display. Thus, applicants submit that the proposed combination of Ohe et al and Johnson et al fail to provide the claimed features as recited in claims 1-7 of this application in the sense of 35 U.S.C. 103, and all claims should be considered allowable over this proposed combination of references.

With regard to the requirements to support a rejection under 35 U.S.C. §103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under §103 to establish a prima facie case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of

ordinary skill in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Furthermore, such requirements have been clarified in the recent decision of In re Lee, (Fed. Cir. 00-1158, 1/18/02) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is "basic knowledge" or "common knowledge". The court pointed out:

> The Examiner's conclusory statements that "the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial" do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor

> taught against its teacher."... Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

As is apparent from the above-noted decisions, "obvious to try" is not the standard of 35 U.S.C. 103, nor can the teachings of the inventor be used against him in combining the cited art. Applicants submit that the Examiner has utilized the aforementioned improper criteria in rejecting the claims over the cited art. Accordingly, applicants submit that all claims patentably distinguish over the cited art in the sense of 35 U.S.C. 103, and should be considered allowable thereover.

With respect to the dependent claims, applicants note that the dependent claims recite further features of the present invention and newly added claims 8-10 more particularly define the display response or the dynamic image display or the dynamic image display of the liquid crystal display unit is the scanning of the entire liquid crystal display unit as described at page 10, lines 5-8 of the Substitute Specification. Thus, applicants submit that the dependent claims recite further features not disclosed or taught in the cited art, and such claims should be considered allowable together with the parent claims thereof.

In view of the above amendments and remarks, applicants submit that all claims present in this application should now be in condition for allowance, and issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (503.38382X00) and please credit any excess fees to such deposit account.

Respectfully submitted,

Melvin Kraus
Registration No. 22,466
ANTONELLI, TERRY, STOUT & KRAUS, LLP

MK/cee
(703) 312-6600